P32

✓ MC 16 V

File No. 324

1985.

Collection No.

85 16-1-44.

Mysore Residency
Bangalore

Pros. Serial Nos. | -8a

105

Subject.

Trial of European British Subjects prosecuted under Municipal Regulations and appointment of the Civil & Sessions Judge of the Cantonment station to be a Justice of the Peace

Previous References.

Later References.

Memo

Letter No. 234/37 dated 1st July 1886 from the Dt Magistrate C & M Station of Bangalore

In the above letter the Dt Magistrate recommends the appointment of Mr. Perera, the 2nd Magistrate as a Justice of the Peace for the C & M Station. Before making the reference, Colonel Macgrath asked Mr. Perera whether he was a European British subject as defined in the Criminal Procedure Code, and Mr. Perera replied that he was the son of a European British subject by legitimate descent, that his father was the establishe

allowance for children
of European soldiers
generally & G.O.G.G.
No. 46 dated 9th July
1840 - and G.O. published
dated Fort St George
15th January 1841 -

2. Under Section 22
of the Criminal Pro. Code,
a Local Government
may, so far as regards
the territories subject
to its administration,
appoint European British
subjects to be Justices
of the Peace. But
this and other Sections
of the Cr. Pro. Code
relating to Justices
of the Peace have
not been extended
to the C & M Stations
by the Notification which
extended the Code

of the Station. At the Station of Foreign territory Justices of the Peace therein have to be appointed by the Governor General as Consul under s. 6 of the Extradition Act. Such Justices of the Peace should be European British subjects. And ~~they are~~ When appointed these Justices of the Peace have all the powers conferred by the Cr. Pro. Code on Magistrates of the ~~1st~~ Class to be ~~are~~ Justices of the Peace and European British subjects.

3. The question now is whether Mr. Rivera is a European British subject. He says he was born at Port of Spain

of the Correctness of his
statement refers to
the fact that his father
drew a certain allowance
granted to the children
of European soldiers
of Artillery General
orders — The General
orders referred to
are necessary but up.
they only make a
distinction between
officers and East
Indians and not
between European
and Subjects and
no Europeans —
It is my humble
opinion that the Mere
fact of Mr Pereira's
father having drawn
the allowance above
referred to cannot
be taken as proof
of his having Portuguese

British subject. It is just possible that Mr Pereira is not a European British subject though he may be a European and I understand that he is, in fact, a Portuguese by descent. The fact too that Mr J. F. Pereira, the 2nd Magistrate's elder brother, is described in his Pension Application as being a Eurasian places the matter of the 2nd Magistrate being a European British subject in doubt. If Mr Pereira is an alien though a European, he should, in order to claim the privileges of a European British subject he ought to have lawfully declared & naturalized by means of a Certificate of a Secretary of State, (please see Mr Tindall's notes under S. 71 of the old Criminal Pro. Code). In this connection I may state

with the exception of

Ic. Warrants Dist

that a few years ago there
was in the Mysore Commission
an Officer named Major Morrell
He was a Frenchman, and
although he was a Military
Officer of the British Govt.
and a District Magistrate
in Mysore, he was considered
ineligible to be made a
Justice of the Peace, and
he was appointed only
after he had himself
declared a Naturalized
European British Subject.

4 Under the circum-
stances stated above
it is My humble opinion
that a Recommendation
to appoint Mr Pereira a
Justice of the Peace
cannot be made to the
Govt. of India until Mr
Mr P. cannot adduce
better evidence than

he has now submitted, to prove that he is a European British subject.

5. The reason why the present recommendations for appointing Mr. Perrin a Justice of the Peace, is made is that he comes under the Municipal Reg^ns in which European British subjects are the accused persons; the Stipendiary Magistrate being Member of the President of the Municipality cannot try them. This is no doubt a difficulty, but as such cases must be very few they can as well be sent to some other Justices of the Peace in the Station. The Acting Civil and Sessions Judge may be appointed a Justice of the Peace, and such cases sent to

true. Colonel Cole told me
the 1st Civil and Services
Judge of the Station was
a Justice of the Peace
but by an oversight,
Col: Moncton has not been
appointed
a Justice of the Peace
Applications may now, I think
be made to the Court of
Judicature to appoint the
C & S. Judge of the Station
for the time being to be
a Justice of the Peace.
The Asst: Resident is
now a Justice of the
Peace and may try some
of these cases if the
be found necessary.
My object in making these
Remarks is to show that
in case Mr Perera is not
shown to be a European
British subject such
circumstance will

Not be felt by him not being
a Justice of the Peace —

Ell

The first addressed
by Mr Perera & not
enclosed, but I daresay
we might be able to
trace his claim.
With reference
grounds the Court as
I think for this
which brief that
the C & S Indy
would be made
L.P. apply to
India according
also the D.R. what
was doing & can
trust after Resolution
civil weapons to
any cases as he is
L.P.

28/10 - 2 Draft
enclosed
29/5/52

No 234/87; Letter

Office of the District Magte
of the Civil & Military Stn
Bangalore
1st July 1887.

To

The Assistant to the Resident
in Mysore.
Bangalore.

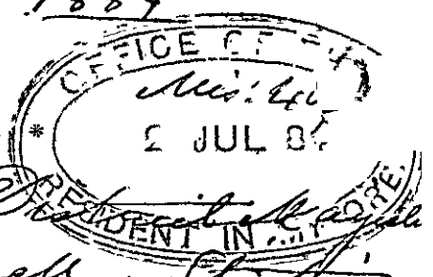
Sir

I have the honor to request that the
2nd Magistrate may be made a Justice
of the Peace for the Mysore Assigned
Tract — as he is at present unable
to take up cases in which the District
Magistrate as President of the Municipal
Board orders prosecutions.

I have the honor to be
Sir
Your most Obt: Servant
T. Morris Prattle
District Magistrate

46

1884



From: The Deputy Commissioner
Excell. Station

Dated 1st July 1884
Received 2d July 1884

No 234
34

Forwards Copies of Correspondence and requests that the 2d Magistrate may be made a Justice of the Peace for the Mysore Assigned Tract

2 Encl Copies of Correspondence 1317 & 1318 of 1884

Refers to Memo

No 219
27

From

The District Magistrate

Civil & Military Station

Bangalore

To

The 2nd Magistrate

Civil & Military Station

Bangalore

Dated 26th June 82.

I has the honor to request that he will be so good as to inform, if he is a European British Subject as laid down in the Criminal Pro: code & if so to show how he is so -

/Signed/ H. M. S. Macgrath.

Dist Magte.

Copy

[signature]

District Magte.

1/86

No. 139

In the Court of the 2nd Magistrate Civil & Military Station Bangalore

Dated 26th June 1884

To

Colonel H. M. S. Macgrath:

District Magistrate Civil & Military Station, Bangalore.

Sir,

With reference to your Wrt. No. 219/27 dated 26th June 1884, I beg to inform you that I am a European British subject as laid down in Section 4 Clause 11. I am the Son of a European British subject by legitimate descent. My father drew and enjoyed the established allowance for Children of European Soldiers agreeably to G. O. G. G. dated 9th July 1840 No 146 — published at page 316 of G.O. dated Fort St. George 20th July 1840 - and again agreeably to G.O. published at page 25 of G O dated Fort St. George 15th January 1841

I have &c.

(Signed) E Pereira.

Magistrate

"Copy

H M S Macgrath

District Magistrate

EP.

1882 Sept 6-41

To The Distt Magistrate
C V Rd

Dated 30th Augt
Sent 1st Sept

Rs 1217
64-1

Submitted for your perusal

I inform that the Civil &
Sessions Judge of the C V Rd
station Bangalore desired to be
appointed a Justice of the
Peace & he asked to try cases

No 1217
641

Office of the Resident in Mysore
Dated Bangalore 30 August 1884

To
The District Magistrate,
C & M Station of Bangalore

Sir,

With reference to your letter No. 234/37 dated 1st July 1884, requesting that the Second Magistrate be appointed a Justice of the Peace for the C & M Station of Bangalore so that he may take up cases (against European British subjects) in which the District Magistrate, as President of the Municipal Commission, orders prosecutions, I am directed to inform you that the Resident considers it best that the Civil and Sessions Judge of the Station should be appointed a Justice of the Peace, and be asked to try such cases. Application will be made to the Government of India in this behalf.

2. I am also to state

that as the Assistant to the
Resident is a Justice of the
Peace, he can, if necessary
try any cases that cannot
conveniently be taken up
by the other Justices of the
Peace in the Station.

I have &c

HW

Asst. to the Resident

HH
29.8.84.

Ar 1218
176

Office of the Resident in Mysore
Dated Bangalore 30 Augt 1882

To
The Secretary to the Govt. of India,
Foreign Department
Simla

Sir,

I have the honor to request that, with the sanction of H. E. the Governor General in Council, the European Officer holding the appointment of Civil and Sessions Judge of the C & M Station of Bangalore may be appointed a Justice of the Peace for the territories of Mysore including the C & M Station of Bangalore.

The District Magistrate who is a Justice of the Peace, tries cases against European British Subjects, but as he is also the President of the Municipality, he is unable to try cases in which he orders prosecutions under the Municipal Regulations

such cases can, I think, be well disposed of by the Civil and Sessions Judge if he be made a Justice of the Peace. Colonel R. A. Cole, the present Civil and Sessions Judge of the Station was appointed a Justice of the Peace by Foreign Dept Notification No. 159 J.J. dated 21st July 1881, but Colonel H. G. Thomson, the present incumbent, has, by an oversight, not been so appointed

A draft Notification is herewith forwarded for publication in the Gazette of India, if approved.

I have &c

President.

29.8.84

Draft Notification

In exercise of the powers conferred by Section 6 of Act ~~XXI~~ of 1879 (the Foreign Jurisdiction and Extradition Act, 1879), the Govr Genl in Council is pleased to appoint the Officer for the time being holding the office of Civil and Sessions Judge of the Civil and Military Station of Bangalore, being a European British subject, to be a Justice of the Peace within the territories of Mysore including the said Civil and Military Station of Bangalore

f 16

1882 ch 17

Secretary of State
Treasury Department
Washington

Dated 30 August 1883
Rec'd 1st September

No 1218
176

Request for Appointment

Enclosure No. 3823.

Requesting sanction to Benjamin Oliver holding the Appointment of Civil & Criminal Judge of Ct of Va. at Eastern Bangalore may be appointed a Justice of the Peace for the Territories of Wyoming including Civil and Military status.

1884 4

OFFICE OF THE
G. 258
21 OCT 84
RESIDENT IN MYSORE

From
The Judicial Secretary

No. 85
4-83

Dated 14th October 1884

Received 21st ——

Copy

No. 3823 J

With reference to this Office No. 1218/176 dated 30th August 1884, forwards Copy of Notification appointing the Officer for the time being holding the Office of Civil & Sessions Judge of the Coorg. State of Bangalore being a European British subject to be a Justice of the Peace within the State of Mysore.

A copy of this Notification may be forwarded to the C & S. Judge, C & M Stations for information—

A copy may also be

Copy to Civil & Sessions Judge, Coorg

Copy to Civil & Sessions Judge, Bangalore

Copy to Civil & Sessions Judge, Kolar

Copy to Civil & Sessions Judge, Shimoga

Copy to Civil & Sessions Judge, Chitaldroog

Copy to Civil & Sessions Judge, Tumkur

Copy to Civil & Sessions Judge, Hassan

Copy to Civil & Sessions Judge, Kadur

Copy to Civil & Sessions Judge, Mys

Gazette of India 18/10/1884 Part-I page 566

Cancelled file 18/a

4/a

Foreign Department

notification. Internal

Simla the 14th October 1884

No. 3822 J:— In exercise of the powers conferred by section 6 of Act (XXI of 1879) (The Foreign Jurisdiction and extradition Act 1879.), the Governor General in Council is pleased to appoint the Officer for the time being holding the Office of Civil and Sessions Judge of the Civil and Military Station of Bangalore being a European British subject to be a justice of the Peace within the State of Mysore

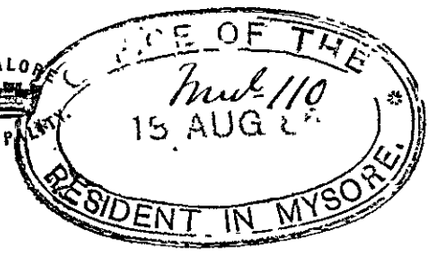
M.

5

See Sections 57 & 62 of our Regulations.

Mem. 14/8/85

5



Dear Martindale

A question has arisen which I have long been expecting. How is the Municipality to prosecute Europeans? Pereira is not a J.P & I can hardly try such cases as I am prosecutor. In the present case, certain claiming to be European, as well as undoubted white men refuse to pay the profession tax. Who am I to sue them in before? Yours truly Lewin Bentley

14 Aug 85

DO. Letter dated 14th August 1885 from major Hatton, District Magt and President of the Native Municipality

1. In the above letter major Hatton informs that certain Europeans refuse to pay the prosperity tax, and wishes to know before whom such persons should be prosecuted.

2. The question now asked by major Hatton was disposed of last year, + Major Hayratt the then District Magistrate recommended that Mr Pereira may be appointed Justice of the Peace, to try cases against Europeans, under the Municipal Regulations. The Resident thought that it would be better to appoint the Civil and Sessions Judge to do so, he was accordingly appointed

3. The Municipality will therefore have to prosecute European ~~subjects~~ defaulters before the Justice of the Peace

~~4. I may intimate that Europeans~~

19th August 1885

Dft. approved.
Mans

Draft submitted 20/8/85

Secy. Mans.
22/8

+ Please see correspondence in Civil file 324 of 1885.

Office of the Resident at Mysore.
Bangalore 21 August 1885.

6

To

Major E O Malleby,
Resident, Municipal Commissioner,
and District-Magistrate,
Civil and Military Station,
Bangalore

Dear Major Malleby,

Letter from
Resident
Bangalore

~~I am directed to acknowledge~~
~~the receipt of~~ Your No, dated 18th August 1885, enquiring ~~by~~ whether ~~you can prosecute~~ European British Subjects ~~prosecuted by summary trial~~ ~~for assault etc~~ under the Municipal Regulations ~~are valid~~, please see ~~Bishop~~ ~~Just to invite your attention to~~ the correspondence noted in the margin, from which it will be seen that the Civil and Sessions Judge of the Civil and Military Station of Bangalore was appointed ~~in~~ 1882 a Justice of the Peace ~~with a view~~ for the ~~by~~ trial of the ~~L~~ class of cases in question

Letter no 234 dated 16 July 1884 from the District-Magistrate
Letter No 1217 dated 30 August 1884 to the District-Magistrate
Enclosures no 15 17 83-85 dated 11 November 1884 from this office

Yours truly
Illegible
21/8/85
Secretary

Secretary to the Resident
21.8.85

Resident's Office. September 5th/85.

Dy 5th Sept/85
Encl: 4/.

My dear Maltby,

With regard to the enclosed letter from Mr Lacey to yourself, dated the 4th instant, which you handed me today and of which I have kept a copy, I find, on looking up the papers, that when Mr Lyall asked the Govt of India to make the D & S. Judge a Justice of the Peace last year, he explained to them that his object was to enable the D & S. Judge to entertain prosecutions (not Small Cause Court suits or ordinary Civil Plaints) brought under the Municipal Regulations against European British Subjects. The Govt of India thereupon issued the necessary notification, and though they did not explicitly say anything regarding the purpose with which they did so, we are bound to assume that they considered the application in all its bearings, especially as they had it before them from the 7th September to the 14th October more than 5 weeks, during which time

time they almost certainly consulted the Legislative Department.

If they had felt the objection Col: Hill appears to have raised, they would have noticed the point in replying.

I think that if you send Col: Hill a copy of our letter dated 30th August 1884 to the Govt of India, and our letter No 1217 of the same date to yourself and of the Govt of India reply No 3823 dated 14th October 1884, he will probably take this view.

I enclose a copy of all 3 communications to facilitate reference.

Yours sincerely

Sd/ A. Martindale.

4th September 1865.

Sir,

I beg to inform you that I took case of Mr. P. B. Gordon before the Civil Judge today, but Col: Hill declined to entertain it or issue processes on the Complaint, as he said he has no jurisdiction.

I explained that the Resident had decided that he should dispose of such cases as Justice of the Peace, when Col: Hill asked me to show him the authority in the Regulations vesting him with the Powers of a Justice of the Peace, in the absence of which he said his decision could be upset and therefore declined to entertain the complaint criminally, but that he would do so if it came up before him as a Small Cause case.

Under these circumstances I solicit your orders as to how I am now to act.

I beg &c

J. W. H. Lacey

To Major Malleby.

No 707- I. B.

A copy of the foregoing notification is forwarded to the Hon'ble the Resident in Mysore, for information.

By order, etc.,

Deputy Secretary to the Government of India.

Foreign Department,
Simla,
The 9th April 1913.

May be filed -
By (M & A.R. has been appd.
19/4/13 ex officio Gen. Sec. by Govt.
No 12 I. dt 3. Jany. 1884)

19/4/13 9.0/4

List.

1	2	3	4
Notification	State, Railway lands or Administered Area.	Extent of cancellation	Extent of amendment.
16-I.J. dated 3rd February 1882.	Alwar.	The whole.	
322-I. dated 4th October 1884.	Mysore	The whole	
1502-I. dated the 14th May 1885.	The lands occupied by the Rajputana Malwa Railway in the States of Marwar and Sirohi.		For the word "Merwara" the word "Ajmer" shall be substituted.
393-A.I., dated 28th January 1888.	Jath		For the word "Kolhapur" the word "Bijapur" shall be substituted.
4971-I dated the 18th December 1888.	Rajpipla Palanpur Sawantwari Narukot	The words "The Administrator of Rajpipla" and "The Agent, Narukot".	For the words "Political Superintendent" in each place where they occur the words "Political Agent" shall be substituted.
319-I. dated 5th March 1891.	Ramadrug		For the words "Collector and Head Assistant Collector of Bellary" the words "Collector of Bellary and the Sub-collector of the Hospet Sub-Division of Bellary" shall be substituted.
1994-I., dated the 11th May 1891.	Sachin	The words from "The Assistant" to "Sachin State".	
4272-I., dated the 20th October 1891.	The Cantonment of Bhuj.	The whole.	
1920-E. dated 19th October 1892.	Karenni		For the words "Court of the Recorder of Rangoon and Chief Commissioner" respectively the words "Chief Court of Lower Burma" and "Lieutenant Governor of Burma" shall be substituted
2402-I.B. dated 1st June 1901	Hyderabad.		In clause (1) for the words from 'Cantonment of' to 'and Raichur' the words 'Cantonments of Secunderabad and the' shall be substituted

Sd/- A. H. Mc Mahon
Secretary to the Govt. of

(COPY)

No. 686-I. B.

G O V E R N M E N T O F I N D I A.

Foreign Department.

Simla, the 2nd April 1913.

N o t i f i c a t i o n.

In exercise of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, and of all other powers enabling him in that behalf, the Governor General in Council is pleased to direct that the notifications of the Government of India in the Foreign Department mentioned in the first column of the list hereto annexed, appointing Justices of the Peace within the States, Railway lands and Administered Areas mentioned in the corresponding entries in the second column, shall be cancelled or amended to the extent shown in the corresponding entries in the third and fourth columns.

List